

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

Jamie Algee and Delmar Algee, in their
capacity as parent and guardian of minor
student, L.A.

Plaintiff,

vs.

TACOMA PUBLIC SCHOOLS;

Defendant.

Case No.:

COMPLAINT FOR RECOVERY OF
ATTORNEY FEES AND COSTS

Plaintiffs, by and through their attorneys, allege as follows:

I. PRELIMINARY STATEMENT

1.1 Plaintiff L.A. (the “student”) is a disabled student eligible for special education under the Individuals with Disabilities Education Act, 20 to 20 U.S.C. § 1415 et seq. (the “IDEA”).

1.2 On April 5, 2022, Jamie Algee and Delmar Algee (hereinafter “Parents”) filed a Due Process Hearing Request with the Office of Administrative Hearings (OAH) alleging denial of a free and appropriate public education (FAPE) under the IDEA.

1.3 A video conference hearing was held on July 25 through 28, 2022, and a partial fifth day on August 2, 2022, before Administrative Law Judge (“ALJ”) Matthew D. Wacker.

1.4 ALJ Wacker issued Findings of Fact, Conclusions of Law, and Final Order on November 10, 2022, concluding that the Defendant violated the IDEA.

1.1 As the prevailing party, the Parents are entitled to reasonable fees and costs, which the Defendant has refused to fully reimburse. The Parents now move this Court for fees and costs pursuant to 20 U.S.C. § 1415(i)(3)(B), in the amount of \$60,840 for fees and costs for the underlying action; and for additional fees and costs incurred in making this petition.

II. PARTIES

2.1 Plaintiff L.A. resides and has always resided relevant to this action within Tacoma Public School's (hereinafter "District") boundaries in Fircrest, Pierce County, Washington. At all times relevant to this action, Plaintiff has been enrolled in the District as a student eligible for the receipt of special education services.

2.2 The Defendant is a first-class school district organized under the laws of the State of Washington located in Tacoma, Pierce County, Washington.

III. JURISDICTION AND VENUE

3.1 Plaintiffs' claims arise under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(i)(3)(B). This Court has jurisdiction pursuant to 20 U.S.C. § 1415(i)(3)(A) and 28 U.S.C. § 1331.

3.2 All acts and omissions at issue occurred in the Western District of Washington. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

IV. FACTUAL ALLEGATIONS

4.1 L.A. is an individual with a disability under the IDEA, 20 U.S.C. § 1401(3) and regulations promulgated pursuant to it at 34 C.F.R. 300 et seq. At all times relevant to this action, L.A. was eligible for special education and related services under the IDEA.

1 4.2 L.A. resides with her parents inside the boundaries of Tacoma Public Schools. She
2 attended, and continues to attend, school in Tacoma Public Schools.

3 4.3 On April 5, 2022, the Parents filed a Due Process Hearing Request with OAH
4 under the IDEA, 20 U.S.C. § 1415(f), (h), and (i) claiming that the District had denied L.A. FAPE.

5 4.4 After the four-day hearing, and partial fifth day, the ALJ considered the evidence
6 and closing arguments submitted by counsel for both parties and issued a decision in favor of
7 Plaintiffs.

8 4.5 In an Order mailed to the parties on or about November 10, 2022, ALJ Wacker
9 ruled that the Defendant had violated the IDEA by denying L.A. a Free Appropriate Public
10 Education (FAPE).

11 4.6 The ALJ ordered remedies and issued directives that changes the legal relationship
12 between the parties, requiring the Defendant to provide specific remedies to the Plaintiffs. The
13 ALJ specifically ordered the Defendant to reimburse the parents for the expense of tutoring and
14 transportation at Hands On Learning Solutions for the period beginning March 16, 2020 to
15 February 9, 2021.

16 4.7 Plaintiffs were the prevailing party in the administrative proceeding pursuant to
17 the IDEA, 20 U.S.C. § 1415(i)(3)(B) and are therefore eligible to recover attorneys' fees.

18 4.8 On November 14 2022, Plaintiffs' attorney, Whitney Hill, sent Defendant's
19 counsel a written request for attorney fees accompanied by a detailed billing statement. The
20 Defendant has not paid the requested fees and has not agreed to do so, forcing the Plaintiffs to
21 initiate this lawsuit to recover attorney fees and costs.

22 4.9 The Parents have accrued and continue to accrue attorney fees and costs in their
23 attempt to secure payment through the filing of the action.

V. CAUSE OF ACTION

A. Request for reasonable attorney fees and costs under the IDEA.

5.1 The factual allegations set forth in the above paragraphs are incorporated by reference.

5.2 As prevailing party at the administrative hearing, the Parents are entitled to reasonable attorney fees.


V. PRAYER FOR RELIEF


6.1 Plaintiffs request the following relief as follows:

6.2 Award Plaintiff's Parents with their costs and reasonable attorney fees for prevailing in the administrative proceeding, and any additional fees incurred pursuing this appeal (including costs for redaction of the administrative record if not done by the Office of the Superintendent of Public Instruction), and this action to enforce her rights to a fee award, pursuant to 20 USC § 1415(i)(3)(B); and

6.3 Plaintiffs pray for such other equitable or legal relief as the Court deems just.

Dated this 5th day of January 2023.

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